

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BOGDAN LIZAK,)	
)	
Plaintiff,)	No. 08 C 1930
)	
v.)	Judge Coar
)	
GREAT MASONRY, INC., and)	Magistrate Judge Nolan
KRZYSZTOF MENDYS,)	
)	
Defendants.)	

**PLAINTIFF’S MOTION FOR ENTRY OF DEFAULT
JUDGMENT AND ORDER SETTING PROVE-UP HEARING**

Plaintiff Bogdan Lizak, through his attorneys, respectfully moves pursuant to Fed.R.Civ.P. 55(b)(2) for entry of a default judgment and order setting a prove-up hearing, in the form attached or otherwise, against Defendants Great Masonry, Inc. (“Company”), and Krzysztof Mendys (“Mendys”) (the Company and Mendys together will be referred to at times as “Defendants”). In support, Lizak respectfully states as follows:

1. This is an employment action seeking relief for violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”); the Illinois Minimum Wage Law, §820 ILCS 105/1, *et seq.* (“IMWL”); the Illinois Employee Classification Act, § 820 ILCS 185/1, *et seq.* (“IECA”); and the common law of retaliatory discharge.

2. As set forth in the complaint, the Court has jurisdiction over Counts I, II, and III pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331; and over Counts IV, V, VI, and VII pursuant to 28 U.S.C. § 1367.

3. As is also set forth in the complaint, venue is proper in this district under 28 U.S.C. § 1391 because the Defendants reside in this district and because all or a substantial part in the events giving rise to the claims occurred within this district.

4. As set forth in the complaint, Lizak is an “employee” within the meaning of each of the applicable statutes, the Company is a “employer” within the meaning of each of those statutes, and Mendys is an “employer” within the meaning of the FLSA and IMWL.

5. As set forth in the complaint, Lizak was employed by the Company from at least January 2005 through January 2008 performing masonry construction.

6. As set forth in Counts I and IV, the Defendants frequently required Lizak to work more than 40 hours a week but failed to pay him premium rates in violation of the FLSA (Count I) and the IMWL (IV).

7. As set forth in the complaint, the Defendants failed to pay Lizak any wages for his work between January 13 and 18, 2008, thereby violating the FLSA (Count II) and the IMWL (Count V).

8. As set forth in the complaint, the Defendants discharged Lizak in late January 2008 in retaliation for his complaints about their failure to pay him for work

earlier that month, thereby violating the FLSA (Count III) and Illinois common law (Count VI).

9. As set forth in the complaint, the Company improperly classified Lizak as an independent contractor rather than as an employee, thereby violating the IECA (Count VII).

10. As set forth in the Return of Service forms filed with the Clerk on May 23, 2008, the summonses and complaints were personally served on each of the defendants on May 9, 2008, making their answers or responsive pleadings due May 29. Exhibits A, B, attached.

11. Neither the Company nor Mendys has answered, filed some other responsive pleading, or had an appearance entered on its or his behalf.

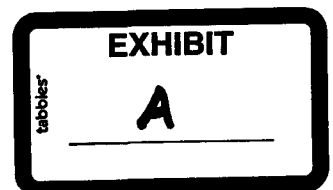
12. Lizak seeks an order finding the Defendants to be in default and setting a prove-up hearing at which time he will be prepared to present evidence as to the damages he has incurred because of the Defendants' unlawful actions as alleged in the complaint.

//s Barry M. Bennett
Attorney for Bogdan Lizak

Barry M. Bennett
DOWD, BLOCH & BENNETT
8 South Michigan Avenue, 19th Floor
Chicago, IL 60603
(312) 372-1361

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RETURN OF SERVICE		
Service of the Summons and Complaint was made by me.		DATE: <u>May 9, 2008</u>
NAME OF SERVER (PRINT): <u>Luciano Padilla</u>		TITLE: <u>Organizer / Special Process Server</u>
<i>Check one box below to indicate appropriate method of service-</i>		
<input checked="" type="checkbox"/> [X]	Served personally upon the defendant. Place where served: <u>3101 N. Lowell</u> <u>Chicago IL</u>	
<input type="checkbox"/> []	Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____	
<input type="checkbox"/> []	Returned unexecuted: _____	
<input type="checkbox"/> []	Other (specify): _____	
STATEMENT OF SERVICES FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on <u>5/16/2008</u>	<u>Luciano Padilla</u> Signature of Server	
Address of Server <u>434 W. Aldine, Chicago, IL</u> <u>60657</u>		



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SUMMONS IN A CIVIL CASE

BOGDAN LIZAK,

Plaintiff,

v.

GREAT MASONRY, INC., and
KRZYSZTOF MENDYS,

Defendants.

08 C 1930

Docket Number: _____

Assigned Judge: _____

Designated
Magistrate Judge: _____

**JUDGE COAR
MAGISTRATE JUDGE NOLAN**

TO: (Name and address of defendant)

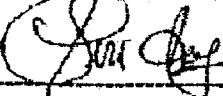
Great Masonry, Inc.
c/o Mr. Krzysztof Mendys, President
3511 North Kostner
Chicago, IL 60641

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Barry M. Bennett
Dowd, Bloch & Bennett
8 South Michigan Avenue, 19th Floor
Chicago, IL 60603

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Michael W. Dobbins, Clerk



(By) DEPUTY CLERK

Date

April 4, 2008

Date



RETURN OF SERVICE		
Service of the Summons and Complaint was made by me.		DATE: <u>May 9, 2008</u>
NAME OF SERVER (PRINT): <u>Cuciano Padilla</u>		TITLE: <u>Organizer / Special Process Server</u>
Check one box below to indicate appropriate method of service-		
<input checked="" type="checkbox"/>	Served personally upon the defendant. Place where served: <u>3101 N. Lowe II, Chicago IL</u>	
<input type="checkbox"/>	Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____	
<input type="checkbox"/>	Returned unexecuted: _____	
<input type="checkbox"/>	Other (specify): _____	
STATEMENT OF SERVICES FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p>		
Executed on <u>5/16/2008</u>	<u><i>Cuciano Padilla</i></u> Signature of Server	
Date	<u>434 W. Aldine, Chicago, IL</u> Address of Server <u>60657</u>	



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NORTHERN DISTRICT OF ILLINOIS

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GREAT MASONRY, INC., and
KRZYSZTOF MENDYS,

Defendants.

08 C 1930

Docket Number: _____

Assigned Judge: _____

Designated
Magistrate Judge: _____
JUDGE COAR
MAGISTRATE JUDGE NOLAN

TO: (Name and address of defendant)

Mr. Krzysztof Mendys
3511 North Kostner
Chicago, IL 60641

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

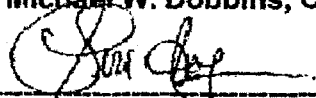
Barry M. Bennett
Dowd, Bloch & Bennett
8 South Michigan Avenue, 19th Floor
Chicago, IL 60603

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Michael W. Dobbins, Clerk

Date

Michael W. Dobbins, Clerk



(By) DEPUTY CLERK

April 4, 2008

Date



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)	
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ORDER

This matter came before the Court on the motion for entry of a default judgment and an order scheduling a prove-up hearing filed on behalf of Plaintiff Bogdan Lizak, the Court has examined Lizak's submissions and is fully informed, and it appears that good cause exists for granting Lizak's motion and entering this order.

Therefore, IT IS ORDERED as follows:

1. Lizak's motion for entry of a default judgment against Defendants Great Masonry, Inc., and Krzysztof Mendys is granted; and
2. The Court will conduct a hearing on _____, 2008 at _____, at which time Lizak will be expected to present evidence as to the damages he has incurred, and the defendant may appear and present such evidence or arguments as they see fit.

SO ORDERED.

David H. Coar, J.

Date: _____

CERTIFICATE OF SERVICE

I certify that I will serve the attached notice of motion, motion, and proposed order on the following parties, which are not eligible for electronic service, by having copies mailed to them at the addresses indicated on June 2, 2008:

Great Masonry, Inc.
c/o Krzysztof Mendys
3101 N. Lowell
Chicago, IL 60641-5316

Mr. Krzysztof Mendys
3101 N. Lowell
Chicago, IL 60641-5316

Great Masonry, Inc.
c/o Krzysztof Mendys
3511 North Kostner
Chicago, IL 60641

Mr. Krzysztof Mendys
3511 North Kostner
Chicago, IL 60641

/s/ Barry M. Bennett